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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/287,968	04/07/1999	Alan Otto	P9903	6916

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EXAMINER

PECHHOLD, ALEXANDRA K

ART UNIT

PAPER NUMBER

3671

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Please find below and/or attached an Office communication concerning this application or proceeding.

SK

Office Action Summary

Application No.

09/287,968

Applicant(s)

OTTO ET AL.

Examiner

Alexandra K Pechhold

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 27 September 2001 is: a) ☒ approved b) ☐ disapproved by the Examiner
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 10-14, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Connelly (US 1,238,497).

Regarding claim 1, Connelly discloses a roller assembly comprising a frame member, seen formed by irons (4), frame members (1), members (5), and forms (3). A plurality of front roller members are shown as rollers (23), and a plurality of rear roller members are seen as rollers (20) in Fig. 1. A plurality of waling beams pivotally connected to the frame member are disclosed as links (15), frames (16), frames (17), and links (24) in Fig. 1. These links and frames connect one of the front rollers with a respective one of the rear rollers. The pivotal connections are disclosed on page 1, lines 96-103 and page 2, lines 16-24. Connelly fails to disclose the number of rear rollers corresponding to the number of front rollers. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the number of front and/or rear rollers of Connelly to be corresponding in number, since modifying the number of rollers is an arbitrary decision which does not alter the operation or function of the assembly. More or fewer roller may be merely required for a greater or

lesser width, and thereby are dependent on the environment of the particular application. Applicant notes the non-criticality of this limitation on page 6, noting that "[a]lthough five pairs of front and rear roller members are illustrated, it is to be understood that any desirable number of pairs can be mounted in similar fashion".

Regarding claim 13, Connelly discloses the limitations of the claimed invention as discussed in reference to claim 1 above. The walking beams can be viewed a continuous connection between a frame (16) and frame (17) connecting a front roller with a rear roller (see Fig. 1). Yet Connelly fails to disclose exactly five front rollers, five rear rollers, and five walking beams. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the number of front and/or rear rollers of Connelly to be corresponding in number, since modifying the number of rollers is an arbitrary decision which does not alter the operation or function of the assembly. More or fewer roller may be merely required for a greater or lesser width, and thereby are dependent on the environment of the particular application. Applicant notes the non-criticality of this limitation on page 6, noting that "[a]lthough five pairs of front and rear roller members are illustrated, it is to be understood that any desirable number of pairs can be mounted in similar fashion".

Regarding claims 2 and 14, Connelly illustrates in fig. 1 the radial axes of the front rollers offset from the rear rollers.

Regarding claim 3, Connelly depicts a generally rectangular outer frame in Fig. 1.

Regarding claim 4, Connelly discloses two channels irons (4) on page 1, lines 61-66.

Regarding claims 10 and 11, a reinforcing beam can be seen as any of the parallel frame members (16) or (17) in Fig. 1.

Regarding claim 12, at least one of the rollers (20, 23) is mounted between frame members (16, 17).

Regarding claim 19, a reinforcing beam can be seen as any of the parallel frame members (16) or (17) in Fig. 1, with at least one of the rollers (20, 23) mounted between frame members (16, 17).

3. Claims 5-7 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Connelly (US 1,238,497) as applied to claims 1 and 13 above, and further in view of Cull (US 1,320,533).

Regarding claims 5 and 15, Connelly fails to disclose an attachment mechanism secured to the frame member. Cull teaches a road roller having a shaft or tongue (5) to permit attachment to a motor vehicle (page 1, line 106-112 and page 2, lines 1-2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the roller assembly of Connelly to have an attachment mechanism as taught by Cull, since Cull states on page 1, lines 106-112 and page 2, lines 1-2 that a shaft or tongue facilitates attachment to a motor vehicle, which thereby provides a transport and towing means, particularly when manual operation is not convenient or desirable.

Regarding claims 6, 7, 16, and 17, Connelly fails to disclose a hitch mechanism secured to the frame member, or where the hitch mechanism and attachment mechanism are on opposite sides of the frame member. Cull teaches a road roller

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having a shaft or tongue (5) to permit attachment to a motor vehicle (page 1, line 106-112 and page 2, lines 1-2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the roller assembly of Connelly to have both an attachment and a hitch mechanism on opposite sides of the frame, since Cull states on page 1, lines 106-112 and page 2, lines 1-2 that a shaft or tongue facilitates attachment to a motor vehicle, which thereby provides a transport and towing means. Providing another attachment/hitch means on the opposite side is merely duplication, and would enable hitching another side of the assembly to a vehicle. It has also been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Claims 8, 9, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Connelly (US 1,238,497) as applied to claims 1 and 13 above, and further in view of Rossburger (US 5,395,182). Connelly fails to disclose the roller members comprising wheel and tire assemblies secured with bushings. Rossburger discloses wheel and tire assemblies, seen as wheels (75) in Figs. 1-3, and bearings (73) in Fig. 6 (Col 3, lines 21-23). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the number of front and/or rear rollers of Connelly to be tire and wheel assemblies with bushings, since compaction wheels are commonly comprised of wheel and tire assemblies.

4. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Connelly (US 1,238,497) in view of Cull (US 1,320,533). Connelly discloses the limitations of the claimed invention as discussed in reference to claims 1 and 13 above.

Connelly fails to disclose connecting the roller assembly to a tow vehicle and towing the roller. Cull teaches a road roller having a shaft or tongue (5) to permit attachment to a motor vehicle (page 1, line 106-112 and page 2, lines 1-2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the roller assembly of Connelly to have an attachment mechanism as taught by Cull, since Cull states on page 1, lines 106-112 and page 2, lines 1-2 that a shaft or tongue facilitates attachment to a motor vehicle, which thereby provides a transport and towing means when manual operation of the assembly is not convenient or desirable.

Connelly also fails to disclose the rear rollers corresponding in number to the front rollers. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the number of front and/or rear rollers of Connelly to be corresponding in number, since modifying the number of rollers is an arbitrary decision which does not alter the operation or function of the assembly. More or fewer roller may be merely required for a greater or lesser width, and thereby are dependent on the environment of the particular application. Applicant notes the non-criticality of this limitation on page 6, noting that "[a]lthough five pairs of front and rear roller members are illustrated, it is to be understood that any desirable number of pairs can be mounted in similar fashion".


Response to Arguments

5. Applicant's arguments with respect to claims 1, 13, and 20 have been considered but are moot in view of the new grounds of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexandra Pechhold whose telephone number is (703) 305-0870. The examiner can normally be reached on Mon-Thurs. from 8:00am to 5:30pm and alternating Fridays from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703)308-3870. The fax phone number for this Group is (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.


Thomas B. Will
Supervisory Patent Examiner
Group 3600

AKP
3/21/02